

AMENDED IN SENATE JUNE 1, 2006

AMENDED IN ASSEMBLY MAY 1, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2664**

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**Introduced by Assembly Member Houston**

February 24, 2006

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An act to amend Sections 1812.84, 1812.85, and 1812.86 of the Civil Code, relating to contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2664, as amended, Houston. Health studio contracts.

(1) Existing law prohibits a contract for health studio services from requiring payments or financing by the buyer to exceed the term of the contract, and further prohibits the term of a health studio services contract from exceeding 3 years. That provision does not apply, however, to a member's obligation to pay valid outstanding moneys due under the contract.

This bill would revise the above provision to instead specify that it does not apply to a member's obligation to pay moneys due under the contract, whether incurred before or after the notice of termination.

(2) Existing law regarding contracts for health studio services authorizes the consumer to cancel a health studio services contract within certain timeframes, based on the amount of payment required by the contract, as specified. Existing law also exempts from those provisions a health studio entering into a contract for health studio services that does not require payment in excess of \$1,000, including initiation or initial membership fees and exclusive of interest or finance charges.

This bill would revise the amount of the above exemption limitation by increasing it to \$1,500. ~~The bill would also specify that those provisions are not intended to prohibit nonrefundable prepayment of dues or fees.~~

(3) Existing law prohibits a contract for health studio services from requiring payment by a person receiving services or the use of the facilities of a total amount in excess of \$3,000, on and after January 1, 2006, and \$4,400, on and after January 1, 2010.

This bill would specify that those provisions do not prohibit a health studio services contract entered into by members of the same family or household, or an employer, from exceeding those monetary limits, if the payments required under the contract, when divided by the number of individuals who are entitled to use the health studio services or facilities pursuant to the contract, do not exceed the monetary limits.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1812.84 of the Civil Code is amended  
2 to read:

3 1812.84. (a) A contract for health studio services may not  
4 require payments or financing by the buyer to exceed the term of  
5 the contract, nor may the term of the contract exceed three years.  
6 This subdivision does not apply to a member's obligation to pay  
7 moneys due under the contract, whether incurred before or after  
8 the notice of termination, including moneys to be paid pursuant  
9 to a termination notice period in the contract in which the  
10 termination notice period does not exceed 30 days.

11 (b) A contract for health studio services shall include a  
12 statement printed in a size at least 14-point type that discloses the  
13 length of the term of the contract. This statement shall be placed  
14 above the space reserved for the signature of the buyer.

15 SEC. 2. Section 1812.85 of the Civil Code is amended to  
16 read:

17 1812.85. (a) Every contract for health studio services shall  
18 provide that performance of the agreed-upon services will begin  
19 within six months after the date the contract is entered into. The  
20 consumer may cancel the contract and receive a pro rata refund if

the health studio fails to provide the specific facilities advertised or offered in writing by the time indicated. If no time is indicated in the contract, the consumer may cancel the contract within six months after the execution of the contract and shall receive a pro rata refund. If a health studio fails to meet a timeline set forth in this section, the consumer may cancel the contract at any time after the expiration of the timeline. However, if following the expiration of the timeline, the health studio provides the advertised or agreed-upon services, the consumer may cancel the contract up to 10 days after those services are provided.

(b) (1) Every contract for health studio services shall, in addition, contain on its face, and in close proximity to the space reserved for the signature of the buyer, a conspicuous statement in a size equal to at least 10-point boldface type, as follows:

“You, the buyer, may cancel this agreement at any time prior to midnight of the fifth business day of the health studio after the date of this agreement, excluding Sundays and holidays. To cancel this agreement, mail or deliver a signed and dated notice, or send a telegram which states that you, the buyer, are canceling this agreement, or words of similar effect. The notice shall be sent to,

\_\_\_\_\_  
 (Name of health studio operator)  
 at \_\_\_\_\_  
 (Address of health studio operator).”

(2) The contract for health studio services shall contain on the first page, in a type size no smaller than that generally used in the body of the document, the following: (A) the name and address of the health studio operator to which the notice of cancellation is to be mailed, and (B) the date the buyer signed the contract.

(3) The contract shall provide a description of the services, facilities, and hours of access to which the consumer is entitled. Any services, facilities, and hours of access that are not described in the contract shall be considered optional services, and these optional services shall be considered as separate contracts for the purposes of this title and Section 1812.83.

1 (4) Until the health studio operator has complied with this  
2 section, the buyer may cancel the contract for health studio  
3 services.

4 (5) All moneys paid pursuant to a contract for health studio  
5 services shall be refunded within 10 days after receipt of the  
6 notice of cancellation, except that payment shall be made for any  
7 health studio services received prior to cancellation.

8 (c) If at any time during the term of the contract, including a  
9 transfer of the contractual obligation, the health studio eliminates  
10 or substantially reduces the scope of the facilities, such as  
11 swimming pools or tennis courts, that were described in the  
12 contract, in an advertisement relating to the specific location, or  
13 in a written offer, and available to the consumer upon execution  
14 of the contract, the consumer may cancel the contract and receive  
15 a pro rata refund. The consumer may not cancel the contract  
16 pursuant to this subdivision if the health studio, after giving  
17 reasonable notice to its members, temporarily takes facilities out  
18 of operation for reasonable repairs, modifications, substitutions,  
19 or improvements. This subdivision shall not be interpreted to  
20 give the consumer the right to cancel a contract because of  
21 changes to the type or quantity of classes or equipment offered,  
22 provided the consumer is informed in the contract that the health  
23 studio reserves the right to make changes to the type or quantity  
24 of classes or equipment offered and the changes to the type or  
25 quantity of classes or equipment offered ~~is~~ are reasonable under  
26 the circumstances.

27 (d) (1) If a contract for health studio services requires  
28 payment of one thousand five hundred dollars (\$1,500) to two  
29 thousand dollars (\$2,000), inclusive, including initiation fees or  
30 initial membership fees, by the person receiving the services or  
31 the use of the facility, the person shall have the right to cancel the  
32 contract within 20 days after the contract is executed.

33 (2) If a contract for health studio services requires payment of  
34 two thousand one dollars (\$2,001) to two thousand five hundred  
35 dollars (\$2,500), inclusive, including initiation fees or initial  
36 membership fees, by the person receiving the services or the use  
37 of the facility, the person shall have the right to cancel the  
38 contract within 30 days after the contract is executed.

39 (3) If a contract for health studio services requires payment of  
40 two thousand five hundred one dollars (\$2,501) or more,

1 including initiation fees or initial membership fees, by the person  
2 receiving the services or the use of the facility, the person shall  
3 have the right to cancel the contract within 45 days after the  
4 contract is executed.

5 (4) The right of cancellation provided in this subdivision shall  
6 be set out in the membership contract.

7 (5) The rights and remedies under this paragraph are  
8 cumulative to any rights and remedies under other law.

9 (6) A health studio entering into a contract for health studio  
10 services that does not require payment in excess of one thousand  
11 five hundred dollars (\$1,500), including initiation or initial  
12 membership fees and exclusive of interest or finance charges, by  
13 the person receiving the services or the use of the facilities, is not  
14 required to comply with the provisions of this subdivision that  
15 are added by the act adding this paragraph.

16 (e) Upon cancellation, the consumer shall be liable only for  
17 that portion of the total contract payment, including initiation  
18 fees and other charges however denominated, that has been  
19 available for use by the consumer, based upon a pro rata  
20 calculation over the term of the contract. The remaining portion  
21 of the contract payment shall be returned to the consumer by the  
22 health studio.

23 ~~(f) This title is not intended to prohibit nonrefundable~~  
24 ~~prepayment of dues or fees. This subdivision is declaratory of~~  
25 ~~existing law.~~

26 SEC. 3. Section 1812.86 of the Civil Code is amended to  
27 read:

28 1812.86. (a) No contract for health studio services shall  
29 require payment by the person receiving the services or the use of  
30 the facilities of a total amount in excess of the amount specified  
31 in subdivision (b) or (c).

32 (b) The limit specified in subdivision (a) shall, on and after  
33 January 1, 2006, be three thousand dollars (\$3,000), inclusive of  
34 initiation or initial membership fees and exclusive of interest or  
35 finance charges.

36 (c) The limit in subdivision (a) shall, on and after January 1,  
37 2010, be four thousand four hundred dollars (\$4,400), inclusive  
38 of initiation or initial membership fees and exclusive of interest  
39 or finance charges.

(d) This section does not prohibit a health studio services contract entered into by members of the same family or household from exceeding the limits specified in subdivisions (b) and (c), if the payments required under the contract, when divided by the number of individuals over 14 years of age who are entitled to use the health studio services or facilities pursuant to the contract, do not exceed the limits specified in subdivisions (b) and (c).

(e) This section does not prohibit a health studio services contract entered into by an employer on behalf of its employees from exceeding the limits specified in subdivisions (b) and (c), if the payments required under the contract, when divided by the number of employees entitled to use the health studio services or facilities pursuant to the contract, do ~~not~~ *not* exceed the limits specified in subdivisions (b) and (c).